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AMENDMENTS TO THE CLAIMS

Please amend the claims as follows:

1. (Previously Presented) A method of changing a physical data rate of an air interface on a per channel basis, the method comprising:
providing a plurality of logical communication channels, the plurality of logical communication channels being configured to communicate a signal;
providing a control channel that assigns data rates to the plurality of logical channels, the control channel including interfered carrier information; and
changing the data rates of the plurality of logical channels on a per channel basis.
2. (Original) The method of claim 1, further comprising providing a high data rate channel.
3. (Original) The method of claim 1, further comprising using a frequency hopping spread spectrum method to transmit the signal over the plurality of logical communication channels.
4. (Previously Presented) The method of claim 1, further characterized in that the control channel operates at a low data rate.
5. (Previously Presented) The method of claim 1, further characterized in that the plurality of logical communication channels operate at a data rate selected by the control channel.
6. (Previously Presented) The method of claim 5, further characterized in that the selected data rate is a multiple of a basic data rate.
7. (Previously Presented) The method of claim 1, further characterized in that logical communication channels having a high data rate communicate data information and logical communication channels having a low data rate communicate voice information.

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8. (Previously Presented) The method of claim 7, further characterized in that the high data rate is between 32 k bits/sec and 256 k bits/sec and the low data rate is between 16 k bits/sec and 32 k bits/sec.

9. (Previously Presented) The method of claim 1, further characterized in that, the signal is communicated between a portable telephone and a base station.

10. (Previously Presented) An air interface comprising:
at least one logical communication channel configured to communicate a signal; and
a control channel that assigns a data rate to each of the at least one logical communication channel, the control channel being configured to change the data rate assigned to each of the at least one logical communication channel based upon signal quality information about data communicated with the signal.

11. Canceled.

12. (Currently Amended) The air interface of claim 10 ~~claim 11~~, further characterized in that the information about data communicated with the signal further comprises data type information.

13. (Canceled)

14. (Previously Presented) The air interface of claim 10, further characterized in that the communicated signal is transmitted using a frequency hopping spread spectrum method.

15. (Previously Presented) The air interface of claim 10, further characterized in that the control channel includes interfered carrier information.

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16. (Previously Presented) The air interface of claim 10, further characterized in that the control channel uses cyclic redundancy checks (CRC) to determine whether the at least one logical communication channels are disturbed.

17. (Previously Presented) A wireless communication system which provides for low data rate services as well as higher data rate services without a reduction in sensitivity characteristic to switching modulation schemes, the communication system comprising:

a communication device capable of receiving and sending communication signals;

a base station capable of receiving and sending communication signals; and

an air interface of wireless communications between the communication device and the base station, the air interface including a control channel and a plurality of logical communication channels, the control channel changing data rates to the plurality of logical communication channels on a per channel basis based upon signal quality information about data communicated with the signal.

18. (Previously Presented) The communication system of claim 17, further characterized in that the air interface includes a high data rate communication channel.

19. (Previously Presented) The communication system of claim 17, further characterized in that the control channel operates at a lowest possible data rate, thereby using a lowest bandwidth and ensuring best sensitivity.

20. (Previously Presented) The communication system of claim 17, further characterized in that logical communication channels having a high data rate communicate data information and logical communication channels having a low data rate communicate voice information.

21. (Previously Presented) The communication system of claim 20, further characterized in that the high data rate is between 32 k bits/sec and 256 k bits/sec and the low data rate is between 16 k bits/sec and 32 k bits/sec.

22. (Previously Presented) The communication system of claim 17, further characterized in that the communication device is a personal digital assistant (PDA).

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REMARKS

This Application has been carefully reviewed in light of the Office Action mailed April 19, 2005. In order to advance prosecution of this case, Applicant amends Claim 12. Applicant respectfully requests reconsideration and favorable action in this case.

Oath/Declaration

The Office Action states that the oath or declaration is defective due to an improperly dated Declaration of January 8, 2008. Applicant respectfully traverses this rejection because the date shown on the Declaration is 01-08-08, which is meant to denote August 8, 2001. The inventor used this notation because he lives in a foreign country and did not use the typical U.S. notation. Thus, the Declaration is properly executed and dated.

Claim Objections

The Office Action objected to Claim 12 because of informalities. Pursuant to the request of the Examiner, Applicant has made the appropriate corrections to Claim 12.

Section 103(a) Rejections

The Office Action rejects Claims 1-2, 5-7, 9-13, 15-18 and 20 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,526,030 issued to Rezaiifar et al. ("Rezaiifar") in view of U.S. Patent No. 6,665,538 issued to Hunte ("Hunte"). The Office Action further rejects Claims 3-4, 8-9, 14 and 21 under 35 U.S.C. §103(a) as being unpatentable over Rezaiifar in view of Hunte, as applied to Claims 1, 10 and 17 above, and in further view of U.S. Patent No. 6,729,929 issued to Sayers et al. ("Sayers"). The Office Action further rejects Claim 22 under 35 U.S.C. §103(a) as being unpatentable over Rezaiifar in view of Hunte, as applied to Claim 17 above, and further in view of U.S. Patent No. 6,275,506 issued to Fazel et al. ("Fazel"). Applicant respectfully traverses these rejections for the reasons stated below.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success.

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Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." MPEP § 2143.

First, Applicant respectfully submits that there is no suggestion or motivation, in either *Rezaiifar* or *Hunte* or in the knowledge generally available to one of ordinary skill in the art, to combine *Rezaiifar* and *Hunte* as proposed by the Examiner. Applicant notes that the Examiner has not provided the required evidence of a suggestion to combine *Rezaiifar* and *Hunte*. As mandated by the Federal Circuit, "[t]he factual inquiry whether to [modify] references must be thorough and searching." *In re Sang-Su Lee*, 277 F.3d 1338, 1343 (Fed. Cir. 2002). Any "conclusory statements . . . do not adequately address the issue of motivation to combine." *Id.* The Examiner simply states at page 4 of the Office Action that "it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the teaching of *Rezaiifar* with that of *Hunte* for the advantage [sic] exchanging information that enables a system to opportunistically increase a data transfer rate when conditions allow and retreat to a lesser transfer rate when conditions are more adverse (col. 5, lines 20-27)." This reasoning merely presents an advantage of dynamic link adaptation taken from *Hunte*. The Examiner gives no technical reasoning how the *Rezaiifar* system could be modified to include dynamic link adaptation and, if modified, whether or not it would be successful. Thus, there is no "factual inquiry" in this reasoning, and this reasoning surely cannot be said to be "thorough and searching." In fact, *Rezaiifar* does not disclose, teach or suggest dynamic link adaptation. *Rezaiifar* merely discloses a scheduler (12) that allocates data rates for forward and reverse supplemental channels before the data is transmitted. (*Rezaiifar*, col. 9, ll. 7-9). Hence, one of ordinary skill in the art at the time the invention was made would not be motivated to combine *Hunte* with *Rezaiifar* for at least this reason.

Second, not all claim limitations are taught or suggested by the *Rezaiifar/Hunte* combination. M.P.E.P. § 2143.03. For example, with respect to independent Claim 1, *Hunte* does not disclose, teach or suggest "the control channel including interfered carrier information." The Examiner states at page 4 of the Office Action that the "Examiner considers the carrier interference information cited in *Hunte*'s reference is exchanged using control channel/s." However, *Hunte* does not disclose this. If the Examiner is relying on common knowledge in the art or using personal knowledge, then Applicant respectfully requests a reference be cited in support of this position.

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Thus, for at least these reasons, a *prima facie* case of obviousness has not been established with respect to independent Claims 1, 10 and 17. Applicant respectfully requests reconsideration and favorable action.

Dependent Claims 2-9 depend from independent Claim 1, Claims 12 and 14-16 depend from independent Claim 10, and Claims 18-22 depend from independent Claim 17. These dependent claims are also not rendered obvious by the cited combinations because they include the limitations of their respective independent claim as well as additional limitations that further distinguish the cited references. Reconsideration and favorable action are respectfully requested.

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CONCLUSIONS

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other apparent reasons, Applicant respectfully requests full allowance of all pending Claims.

If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicant stands ready to conduct such a conference at the convenience of the Examiner.

The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 19-2179 of SIEMENS CORPORATION.

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Respectfully submitted,

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